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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 191**

**Act of Sederunt (Simple Procedure  
Amendment) (Miscellaneous) 2018**

**Amendment of the Act of Sederunt (Simple Procedure) 2016**

**2.—(1)** The Act of Sederunt (Simple Procedure) 2016<sup>(1)</sup> is amended in accordance with this paragraph.

(2) In schedule 1 (the simple procedure rules)—

- (a) in rule 2.4(1), for “or the Response Form” substitute “, Response Form or Time to Pay Application”;
- (b) for rule 3.12(1), for “send a Response Form to the court and to the claimant” substitute “respond to the claim (see rule 4.2)”;
- (c) for rule 4.2, substitute—

**“4.2 How do you respond to a claim?”**

- (1) The respondent must respond to the claim by the last date for a response.
- (2) The respondent may respond to a claim in one of two ways:
  - (a) by completing a Response Form and sending it to the court and the claimant, or
  - (b) if the respondent wants to admit the claim and ask for time to pay, by completing a Time to Pay Application and sending it to the court.”;
- (d) in rule 4.3(3)<sup>(2)</sup>, in the flow-chart—
  - (i) omit “Select option C2 on the Response Form.”;
  - (ii) omit “also”;
  - (iii) omit “with the completed Response Form”;
  - (iv) for “C3” substitute “C2”;
- (e) in rule 5.3(1)(a), for “with the completed Response Form” substitute “by the last date for a response”;
- (f) in rule 6.5(1)<sup>(3)</sup>—
  - (i) in sub-paragraph (c), for “or Response Form” substitute “, Response Form or Time to Pay Application”;
  - (ii) in sub-paragraph (d), after “that party” insert “or that party’s representative”;
- (g) in rule 6.7(1)<sup>(4)</sup>—
  - (i) in sub-paragraph (b), for “or Response Form” substitute “, Response Form or Time to Pay Application”;

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<sup>(1)</sup> [S.S.I. 2016/200](#), last amended by [S.S.I. 2017/154](#).

<sup>(2)</sup> Rule 4.3(3) was substituted by [S.S.I. 2017/154](#).

<sup>(3)</sup> Rule 6.5(1) was amended by [S.S.I. 2016/315](#).

<sup>(4)</sup> Rule 6.7(1) was amended by [S.S.I. 2016/315](#).

- (ii) in sub-paragraph (c), after “that party” insert “or that party’s representative”;
- (h) in rule 7.1(1), for “is received” substitute “or Time to Pay Application is received by the last date for a response”;
- (i) in rule 7.2(1), for “From” substitute “Form”;
- (j) in rule 7.4—
  - (i) in the cross-heading, after “**no Response Form**” insert “**or Time to Pay Application**”;
  - (ii) in paragraph (1), after “no Response Form” insert “or Time to Pay Application”;
- (k) for rule 13.5(1)(5), substitute—
  - “(1) A party may apply to have a decision of the sheriff recalled in 5 situations:
    - (a) where the sheriff dismissed a claim because the claimant did not send the court an Application for a Decision within 2 weeks from the last date for a response,
    - (b) where the sheriff made a decision because the respondent did not send the court a Response Form or Time to Pay Application by the last date for a response,
    - (c) where the sheriff dismissed a claim because the claimant did not attend a discussion or hearing,
    - (d) where the sheriff has made a decision because the respondent did not attend a discussion or hearing, and
    - (e) where the sheriff dismissed a claim because neither party attended a discussion or hearing.”;
- (l) for rule 13.6, substitute—

**“13.6 How can a party apply to have a decision of the sheriff recalled?”**

- (1) A party may apply to have a decision of the sheriff recalled by completing an Application to Recall and sending it to the court.
- (2) If the sheriff made a decision following an Application for a Decision and the respondent wants to dispute the claim or part of the claim, the respondent must include a completed Response Form with the Application to Recall.
- (3) The sheriff clerk will check whether the Application to Recall is the first Application to Recall in the case by the party making the application.
- (4) If it is the first Application to Recall by that party, the sheriff must send the parties an order arranging a discussion in court at which the sheriff will consider whether to recall the decision.
- (5) The party making the application must send a copy of the Application to Recall and any Response Form to the other party at least 5 days before the date of the discussion in court.”;
- (m) for rule 15.2(3), substitute—
  - “(3) A party who is sent an order arranging a discussion in court at which the sheriff will consider an Application to Recall must not enforce a decision until the sheriff has decided whether to recall the decision.”;
- (n) after rule 15.3(7)(6), insert—

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(5) Rule 13.5(1) was amended by [S.S.I. 2016/315](#).

(6) Rule 15.3(7) was inserted by [S.S.I. 2017/154](#).

- “(8) Where the Charge is formally served, the sheriff officer is not required to send a Confirmation of Formal Service to the court.”;
- (o) in rule 21.1(1), in the meaning corresponding to the word or expression “last date for a response”, for “send a Response Form to the court and to the claimant” substitute “respond to the claim by sending a Response Form to the court and to the claimant, or respond to the claim by sending a Time to Pay Application to the court”.
- (3) In schedule 2 (forms)—
- (a) in Form 2A (lay representation form), in the introduction, for “or the Response Form” substitute “, Response Form or Time to Pay Application”;
- (b) in Form 3A (claim form)(7), in section A5—
- (i) for “responding party” substitute “respondent”;
- (ii) for “Email” substitute “Online”;
- (c) in Form 3D (timetable), in section C, for “send a Response Form to the court and to the claimant” substitute “do one of two things: (a) send a Response Form to the court and to the claimant, or (b) if the respondent wants to admit the claim and ask for time to pay, send a Time to Pay Application to the court”;
- (d) for Form 4A (response form)(8) substitute Form 4A set out in schedule 1 of this Act of Sederunt;
- (e) for Form 5A (time to pay application)(9) substitute Form 5A set out in schedule 2 of this Act of Sederunt;
- (f) in Form 5B (time to pay notice)(10)—
- (i) in the introduction—
- (aa) for “after the Time to Pay Application is sent” substitute “of it being sent to you”;
- (bb) for “dismiss your claim” substitute “decide whether to grant the application without hearing from you”;
- (ii) in section A, for “Date of notice” substitute “Date notice sent”;
- (g) in Form 6A (notice of claim)(11), in section B—
- (i) for “, if you want to dispute the claim, you must send a completed Response Form to the court and to the claimant” substitute “you must do one of two things: (a) send a Response Form to the court and the claimant, or (b) if you want to admit the claim and ask for time to pay, send a Time to Pay Application to the court”;
- (ii) after “how to complete the Response Form” insert “or Time to Pay Application.”;
- (h) in Form 7A (application for a decision)(12)—
- (i) in the introduction—
- (aa) for “responding party” substitute “respondent”;
- (bb) after “a Response Form” insert “or Time to Pay Application”;
- (ii) in section C, after “Response Form” insert “or Time to Pay Application”;

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(7) Form 3A was amended by [S.S.I. 2016/315](#).

(8) Form 4A was substituted by [S.S.I. 2017/154](#).

(9) Form 5A was amended by [S.S.I. 2016/315](#) and [S.S.I. 2017/154](#).

(10) Form 5B was amended by [S.S.I. 2016/315](#).

(11) Form 6A was substituted by [S.S.I. 2017/154](#).

(12) Form 7A was amended by [S.S.I. 2016/315](#).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (i) for Form 13B (application to recall) substitute Form 13B set out in schedule 3 of this Act of Sederunt.
- (4) In schedule 3 (standard orders)(**13**)—
  - (a) in standard order SO1, for “conference” in both places where it occurs substitute “discussion”;
  - (b) after standard order SO12 insert standard order SO13 set out in schedule 4 of this Act of Sederunt.